



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R06-OAR-2022-0546; FRL-10189-01-R6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Arkansas; Control of Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve the CAA section 111(d) state plan submitted by the State of Arkansas for sources subject to the Municipal Solid Waste (MSW) Landfills Emission Guidelines (EG). The Arkansas MSW landfills plan was submitted to fulfill the state's obligations under CAA section 111(d) to implement and enforce the requirements under the MSW Landfills EG. The EPA is proposing to approve the state plan and amend the agency regulations in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2022-0546, at <https://www.regulations.gov> or via email to ruan-lei.karolina@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied

by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact Karolina Ruan Lei, (214) 665-7346, ruan-lei.karolina@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Karolina Ruan Lei, EPA Region 6 Office, Air and Radiation Division - State Planning and Implementation Branch, (214) 665-7346, ruan-lei.karolina@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID-19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

Section 111 of the CAA, “Standards of Performance for New Stationary Sources,” directs the EPA to establish emission standards for stationary sources of air pollution that could potentially endanger public health or welfare. These standards are referred to as

New Source Performance Standards (NSPS). Section 111(d) addresses the process by which the EPA and states regulate standards of performance for existing sources. When NSPS are promulgated for new sources, section 111(d) and EPA regulations require that the EPA publish an Emission Guideline (EG) to regulate the same pollutants from existing facilities. While NSPS are directly applicable to new sources, EG for existing sources (designated facilities) are intended for states to use to develop a state plan to submit to the EPA.

State plan submittal and revisions under CAA section 111(d) must be consistent with the applicable EG and the requirements of 40 CFR part 60, subpart B, and part 62, subpart A. The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans under CAA section 111(d). Additionally, 40 CFR part 62, subpart A, provides the procedural framework by which the EPA will approve or disapprove such plans submitted by a state. Once approved by the EPA, the state plan becomes federally enforceable. If a state does not submit an approvable state plan to the EPA, the EPA is responsible for developing, implementing, and enforcing a federal plan.

The MSW landfills NSPS for new landfills and EG for existing landfills were first promulgated by EPA on March 12, 1996, in 40 CFR part 60, subparts WWW and Cc, respectively (61 FR 9905). On August 29, 2016, the EPA finalized revisions to the MSW landfills NSPS and EG in 40 CFR part 60, subparts XXX and Cf, respectively (81 FR 59332; 81 FR 59313). The 2016 EG revision updates the control requirements and monitoring, reporting, and recordkeeping provisions for existing MSW landfill sources.

The current MSW landfills EG, found at 40 CFR part 60, subpart Cf, concerns the regulation of landfill gas and its components, including methane, from MSW landfills for which construction, reconstruction, or modification was commenced on or before July 17, 2014. The deadline to submit a state plan to the EPA was May 30, 2017. On May 21,

2021, EPA finalized the MSW landfills federal plan in 40 CFR part 62, subpart OOO (86 FR 27756). The MSW landfills federal plan at 40 CFR part 62, subpart OOO, applies to states that do not have an EPA-approved state plan. The MSW landfills federal plan is currently in effect in Arkansas.

In order to fulfill obligations under CAA section 111(d), the Arkansas Department of Energy and Environment, Division of Environmental Quality (ADEQ) submitted a state plan for the control of emissions from existing MSW landfills for the State of Arkansas on June 20, 2022, and supplemented its submittal on August 24, 2022, and August 31, 2022.¹ The Arkansas MSW landfills plan implements and enforces the applicable provisions under the MSW landfills EG at 40 CFR part 60, subpart Cf, and additionally meets the relevant requirements of the CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B. The Arkansas submittal and the supplements are included in the public docket for this rulemaking (Docket No. EPA-R06-OAR-2022-0546).

II. Evaluation

The EPA has evaluated the Arkansas MSW landfills plan to determine whether the plan meets applicable requirements from the MSW landfills EG at 40 CFR part 60, subpart Cf, and the CAA section 111(d) implementing regulations at 40 CFR part 60, subpart B. The EPA's detailed rationale and discussion on the Arkansas MSW landfills plan can be found in the EPA Technical Support Document (TSD), located in the docket for this rulemaking.

The Arkansas state plan submittal package includes all materials necessary to be deemed administratively and technically complete according to the criteria of 40 CFR part 60, subpart B. The state plan document (the "Arkansas State Plan for 111(d) Designated Facilities") includes all the necessary authority for the implementation and enforcement of the MSW landfill Emission Guidelines in the State. Specifically, the State

¹ The Arkansas plan submitted by ADEQ does not cover sources located in Indian country.

appropriately incorporated all applicable EG requirements from 40 CFR part 60, subpart Cf, into the Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 19, Chapter 17. Both the adopted state plan document and the relevant APC&EC regulations, as well as all other relevant plan submittal materials may be found in the docket for this action. Necessary State legal and enforcement authorities required for plan approval are located elsewhere in Arkansas's statute, rules and regulations and have been reviewed and approved of by the EPA in the course of prior state implementation plan as well as section 111(d) and/or 129 state plan approvals. See 40 CFR part 52, subpart E, and 40 CFR part 62, subpart E.

The Arkansas MSW landfills plan has been evaluated in detail in the TSD. Our evaluation demonstrates that the Arkansas MSW landfills plan meets the requirements in 40 CFR part 60, subpart Cf and subpart B, and is consistent with the requirements for an approvable section 111(d) state plans for MSW landfills.

III. Proposed Action

The EPA is proposing to approve the Arkansas MSW landfill plan submitted by ADEQ in accordance with the requirements of section 111(d) of the CAA and to amend 40 CFR part 62, subpart E, to codify EPA's approval. The EPA is proposing to find that the Arkansas MSW landfill plan is at least as protective as the Federal requirements provided under the MSW landfills EG, codified at 40 CFR part 60, subpart Cf. Once approved by the EPA, the Arkansas MSW landfills plan will become federally enforceable.

IV. Environmental Justice Considerations

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income

populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”² EPA is providing additional analysis of environmental justice associated with this action. We are doing so for the purpose of providing information to the public, not as a basis of our proposed action.

EPA conducted screening analyses using EJSCREEN, an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining various environmental and demographic indicators.³ The EJSCREEN tool presents these indicators at a Census block group (CBG) level or a larger user-specified “buffer” area that covers multiple CBGs.⁴ An individual CBG is a cluster of contiguous blocks within the same census tract and generally contains between 600 and 3,000 people. EJSCREEN is not a tool for performing in-depth risk analysis, but is instead a screening tool that provides an initial representation of indicators related to environmental justice and is subject to uncertainty in some underlying data (*e.g.*, some environmental indicators are based on monitoring data which are not uniformly available; others are based on self-reported data).⁵ To help mitigate this uncertainty, we have

² See <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

³ The EJSCREEN tool is available at <https://www.epa.gov/ejscreen>.

⁴ See <https://www.census.gov/programs-surveys/geography/about/glossary.html>.

⁵ In addition, EJSCREEN relies on the five-year block group estimates from the U.S. Census American Community Survey. The advantage of using five-year over single-year estimates is increased statistical reliability of the data (*i.e.*, lower sampling error), particularly for small geographic areas and population groups. For more information, see https://www.census.gov/content/dam/Census/library/publications/2020/acs/acs_general_handbook_2020.pdf.

summarized EJSCREEN data within larger “buffer” areas covering multiple block groups and representing the average resident within the buffer areas surrounding the MSW landfills. We present EJSCREEN environmental indicators to help screen for locations where residents may experience a higher overall pollution burden than would be expected for a block group with the same total population. These indicators of overall pollution burden include estimates of ambient particulate matter (PM_{2.5}) and ozone concentration, a score for traffic proximity and volume, percentage of pre-1960 housing units (lead paint indicator), and scores for proximity to Superfund sites, risk management plan (RMP) sites, and hazardous waste facilities.⁶ EJSCREEN also provides information on demographic indicators, including percent low-income, communities of color, linguistic isolation, and less than high school education. The EPA prepared EJSCREEN reports covering buffer areas of approximately 3-mile radii around the existing MSW landfills in Arkansas. Table 1 presents a summary of results from the EPA's screening-level analysis for the areas surrounding each MSW landfill compared to the U.S. as a whole, where the landfill was located in an area where one or more of the EJ indices were greater than the 80th percentiles (the full, detailed EJSCREEN reports are provided in the docket for this rulemaking).

Table 1—EJSCREEN Analysis Summary for Existing Arkansas MSW Landfills With EJ Indices Above 80%tile

Variables	Values for buffer areas (radius) for each MSW landfill and the U.S. (percentile within U.S. where indicated)				
	Little Rock Municipal Landfill (Pulaski, 3 miles)	ModelFill Landfill (Pulaski, 3 miles)	Fulton Landfill-Cloverdale (Benton, 3 miles)	City of West Helena Landfill (Phillips, 3 miles)	U.S.
<i>Pollution Burden Indicators</i>					

⁶ For additional information on environmental indicators and proximity scores in EJSCREEN, *see* “EJSCREEN Environmental Justice Mapping and Screening Tool: EJSCREEN Technical Documentation,” Chapter 3 and Appendix C (September 2019) at https://www.epa.gov/sites/default/files/2021-04/documents/ejscreen_technical_document.pdf.

Particulate matter (PM _{2.5}), annual average	9.79 µg/m ³ (80th %ile)	9.9 µg/m ³ (82nd %ile)	9.39 µg/m ³ (72nd %ile)	8.68 µg/m ³ (52nd %ile)	8.74 µg/m ³ (—)
Ozone, summer seasonal average of daily 8-hour max	41.4 ppb (40th %ile)	41.6 ppb (43rd %ile)	43.1 ppb (58th %ile)	40.4 ppb (34th %ile)	42.6 ppb (—)
Traffic proximity and volume score*	120 (37th %ile)	650 (74th %ile)	210 (48th %ile)	110 (35th %ile)	710 (—)
Lead paint (percentage pre-1960 housing)	0.11% (41st %ile)	0.39% (71st %ile)	0.1% (40th %ile)	0.26% (60th %ile)	0.28% (—)
Superfund proximity score*	0.033 (29th %ile)	0.039 (34th %ile)	0.018 (15th %ile)	0.27 (90th %ile)	0.13 (—)
RMP proximity score*	1.1 (78th %ile)	2.7 (94th %ile)	1.5 (85th %ile)	0.37 (53rd %ile)	0.75 (—)
Hazardous waste proximity score*	1.9 (70th %ile)	2 (70th %ile)	0.7 (49th %ile)	1.4 (64th %ile)	2.2 (—)
<i>Demographic Indicators</i>					
People of color population	74% (79th %ile)	77% (81st %ile)	31% (49th %ile)	73% (79th %ile)	40% (—)
Low-income population	56% (86th %ile)	53% (83rd %ile)	39% (67th %ile)	63% (90th %ile)	31% (—)
Linguistically isolated population	4% (69th %ile)	4% (66th %ile)	6% (76th %ile)	0% (45th %ile)	5% (—)
Population with less than high school education	22% (82nd %ile)	15% (69th %ile)	20% (79th %ile)	19% (77th %ile)	12% (—)
Population under 5 years of age	10% (87th %ile)	7% (60th %ile)	5% (44th %ile)	8% (77th %ile)	6%
Population over 64 years of age	10% (30th %ile)	12% (40th %ile)	14% (49th %ile)	19% (69th %ile)	16% (—)

* The traffic proximity and volume indicator is a score calculated by daily traffic count divided by distance in meters to the road. The Superfund proximity, RMP proximity, and hazardous waste proximity indicators are all scores calculated by site or facility counts divided by distance in kilometers.

This proposed rule is proposing to approve Arkansas's MSW Landfills Plan, received on June 20, 2022, in accordance with section 111(d) of the CAA. The Arkansas MSW Landfills Plan incorporates federal requirements for MSW landfills, as specified in the MSW landfills EG at 40 CFR part 60, subpart Cf, which are also implemented under the MSW Landfills Federal Plan at 40 CFR part 62, subpart OOO. The MSW Landfills Federal Plan was implemented by EPA in Arkansas as Arkansas did not have an approved MSW landfills plan addressing applicable EG requirements. These EG requirements implemented under the MSW Landfills Federal Plan and now incorporated by Arkansas in its MSW landfills plan is designed to result in significant emissions reductions for MSW landfills, as described in the *Federal Registers* for the MSW landfill rules (80 FR 52100; 81 FR 59276). Landfill gas is a natural byproduct of the decomposition of organic material in landfills and is composed of roughly 50% methane, 50% carbon dioxide (CO₂), and less than 1% non-methane organic compounds (NMOC) by volume, which include volatile organic compounds (VOC) and various organic hazardous air pollutants (HAP).⁷ VOC emissions are precursors to both fine particulate matter (PM_{2.5}) and ozone formation; exposure to PM_{2.5} and ozone is associated with significant public health effects, including (1) cardiovascular morbidity such as heart attacks, (2) respiratory morbidity such as asthma attacks, acute bronchitis, (3) hospital admissions and emergency room visits, and (4) premature mortality.⁸ Hazardous air pollutants may cause cancer or other serious health effects, such as reproductive effects

⁷ See 80 FR 52099, August 27, 2015.

⁸ *Id.*

or birth defects.⁹ In addition, methane is a potent greenhouse gas with a global warming potential 28-36 times greater than CO₂. Therefore, we believe that these requirements for existing MSW landfills and resulting emissions reductions have climate benefits and have contributed to reduced environmental and health impacts on all populations impacted by emissions from these sources in Arkansas, including people of color and low-income populations, and will continue to do so under Federal oversight. This proposed rule is not anticipated to have disproportionately high or adverse human health or environmental effects on communities with environmental justice concerns because it is not anticipated to result in or contribute to emissions increases in Arkansas. If finalized as proposed, EPA's approval of the Arkansas MSW Landfills Plan will make the Plan and the corresponding MSW landfills EG requirements incorporated into the Plan federally enforceable by EPA as of the effective date of the final rulemaking.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a CAA section 111(d) submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7411(d); 42 U.S.C. 7429; 40 CFR part 60, subparts B and Cf; and 40 CFR part 62, subpart A. Thus, in reviewing CAA section 111(d) state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act and implementing regulations. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

⁹ See <https://www.epa.gov/air-quality-management-process/managing-air-quality-human-health-environmental-and-economic#what>.

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This proposed rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Waste treatment and disposal.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 26, 2022.

Earthea Nance,
Regional Administrator, Region 6.

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